

Sixth Appellate District

San Jose, California

MONDAY, SEPTEMBER 22, 2003

H022635 PEOPLE v. ELLARD, et al.

The judgment is affirmed as to both Yancey and Ellard. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Wunderlich, J.)

Filed September 22, 2003

H025186 PEOPLE v. GRANITE STATE INSURANCE COMPANY

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)

Filed September 22, 2003

H024550 PEOPLE v. JACK

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)

Filed September 22, 2003

H024510 PEOPLE v. VILLANUEVA

The denial of the defendant's motion to suppress evidence is affirmed. (not published)

(Rushing, P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed September 22, 2003

H023208 PEOPLE v. WEAVER

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Wunderlich, J.)

Filed September 22, 2003

TUESDAY, SEPTEMBER 23, 2003

H024889 PEOPLE v. EVERLY

The judgment is modified to strike the conviction for count 5. As so modified, the judgment is affirmed. (not published)

(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)

Filed September 23, 2003

Sixth Appellate District

San Jose, California

Tuesday, September 23, 2003 (continued)

H023840 FUENTES v. SHIN CATERPILLAR MITSUBISHI, LTD., et al.

We conclude Shin was entitled to judgment as a matter of law against Fuentes's complaint and that the motion for summary judgment was appropriately granted. We further conclude the trial court did not abuse its discretion in denying Fuentes's motion for reconsideration. Therefore, the judgment in favor of Shin and against Fuentes on the products liability complaint is affirmed. Shin shall be entitled to its costs on appeal.

We reverse the order sustaining Bridgestone's demurrer without leave to amend to the second amended complaint. The matter is remanded to the superior court to allow Fuentes to amend the complaint to substitute Bridgestone as a Doe defendant. Fuentes shall be entitled to its costs on appeal only against Bridgestone. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed September 23, 2003

H023955 GOODMAN v. CITY OF SAN JOSE

The order granting defendant's motion for a new trial and denying defendant's motion for judgment notwithstanding the verdict is affirmed. The parties shall bear their own appellate costs. (not published)

(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)

Filed September 23, 2003

H023789 PEOPLE v. CASTALINE

The judgment is reversed for the limited purpose of recalculating custody credits upon remand. The trial court is directed to send a copy of the amended abstract of judgment to the Department of Corrections. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed September 23, 2003

H025322 NORDIN v. FLEMING, as Trustee, etc.

The court's order of November 21, 2002, is affirmed.

Respondent is to have costs on appeal. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed September 23, 2003

H025026 PEOPLE v. MOUSA

The judgment is affirmed. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed September 23, 2003

Sixth Appellate District

San Jose, California

Tuesday, September 23, 2003 (continued)

H025726 PEOPLE v. CARLOS H.

The order appealed from is affirmed. (not published)
(Wunderlich, J.; We concur: Rushing, P.J., Mihara, J.)
Filed September 23, 2003

WEDNESDAY, SEPTEMBER 24, 2003

H025460 PEOPLE v. THORSON

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Elia, Acting P.J., Mihara, J.)
Filed September 24, 2003

H024931 PEOPLE v. PALACIOS

The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)
Filed September 24, 2003

H023584 PEOPLE v. MODIRI

The judgment is reversed, and the matter is remanded for
retrial of the personal infliction of great bodily injury
allegation. (published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Wunderlich, J.)
Filed September 24, 2003

H023538 COUNTY OF SANTA CLARA v. RUCKER

By the Court*:

Appellant's petition for rehearing is denied.
Filed: September 24, 2003
*Before Rushing, P.J., and Wunderlich, J.

H024363 COURT HOUSE PLAZA COMPANY v. COUNTY OF SANTA CLARA

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Elia, Acting P.J., Wunderlich, J.)
Filed September 24, 2003

H025474 PEOPLE v. CANCHOLA

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Bamattre-Manoukian, J.)
Filed September 24, 2003

Sixth Appellate District

San Jose, California

Wednesday, September 24, 2003 (continued)

H024035 PEOPLE v. TABAREZ

The judgment is reversed and the matter is remanded for resentencing. The trial court is directed to exercise its discretion by either striking the gang enhancement or imposing the 10-year term. (not published)

(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)

Filed September 24, 2003

H022862 ZAMANI v. SIMONS, et al.

The judgment is reversed. The trial court is directed to vacate its order denying the motion for directed verdict as to the second cause of action for interference with prospective economic advantage and to enter a new order granting it. We do not otherwise disturb the jury's verdict or damages award as to the first cause of action or as to the punitive damages claim. The trial court shall also enter a judgment based on the new order. Parties shall bear their own costs on appeal. (not published)

(Rushing, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)

Filed September 24, 2003

H024056 MATOZA v. NETSCAPE COMMUNICATIONS CORP., et al.

The order granting a new trial is affirmed. The cross-appeal is dismissed as taken from a non-appealable judgment. Marc A. Matoza is entitled to costs on appeal. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Wunderlich, J.)

Filed September 24, 2003

THURSDAY, SEPTEMBER 25, 2003

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Wunderlich, J.; Mihara, J.; and Beth Miller, Deputy Clerk.

H024112 PEOPLE v. OROZCO

Cause called and argued by William Robinson appearing for Appellant and by Sharon R. Wooden, Deputy Attorney General, appearing for Respondent. Submission deferred until the court rules on the pending motion to augment the record.

Sixth Appellate District

San Jose, California

THURSDAY, SEPTEMBER 25, 2003 (continued)

H024835 GUDE v. CEO INTERACTIVE.COM, INC.

Cause called and argued by Charles Marriott Kagay appearing for Appellant. Cause ordered submitted.

H024589 GAINES v. WASHINGTON MUTUAL, et al.

Cause called and argued by Christopher E. Schumb appearing for Appellant and by Dean T. Kirby, Jr. appearing for Respondents. Cause ordered submitted.

H025146 DENTON v. ANDERSON

Cause called and argued by Robin Yeamans appearing for Appellant. No appearance made on behalf of respondent. Cause ordered submitted.

H024718 GUTIERREZ v. RICO

Cause called and argued by Edwin A. Frey appearing for Appellant and by Steven E. Springer appearing for Respondent. Cause ordered submitted. Court is in recess until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Elia, Acting P.J.; Wunderlich, J.; Mihara, J.; and W. Magsaysay, Deputy Clerk.

H025112 MARRIAGE OF JOHNSON

Cause called and argued by Hugo N. Gerstl appearing for Appellant and by Harvey M. Schrier appearing for Respondent. Cause ordered submitted.

H024077 PEOPLE v. JENSEN

Cause called and argued by Joseph C. Shevelson appearing for Appellant and by Ronald E. Niver, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H025126 IN RE ASHLEY B., et al., Minors

Cause called and argued by Linda Jean Conrad appearing for Appellant, by Susan Ware, Deputy County Counsel, appearing for Respondent Santa Clara County Department of Family and Children's Services, and by Robert J. Masterson, Deputy District Attorney, appearing for Respondent minors. Cause ordered submitted.

Sixth Appellate District

San Jose, California

THURSDAY, SEPTEMBER 25, 2003 (continued)

H025434 ESTATE OF GARRETSON B. MURPHY, DECEASED.

Cause called and argued by James K. Roberts appearing for Appellants, by Mary K. Simpson appearing for Respondent Thomas D. Murphy, and by Seth J. Feinberg appearing for Respondent Cynthia Moreno. Cause ordered submitted.

H022610 ENG v. SANTA CLARA VALLEY WATER DISTRICT

Cause called and argued by Russell J. Hanlon appearing for Appellant and by Andrea J. Saltzman appearing for Respondent. Cause ordered submitted. Court adjourns.

H024914 PEOPLE v. ANDREWS

The order appealed from is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)
Filed September 25, 2003

H024823 KEARNEY v. CITY OF SALINAS, et al.

The denial of employee's mandate petition is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed September 25, 2003

H024864 ANDRADE v. FISHER

(Filed order modifying opinion.) There is no change in judgment. Appellant's petition for rehearing is denied. (not published)
(Rushing, P.J.; We concur: Bamattre-Manoukian, J., Wunderlich, J.)
Filed September 25, 2003

FRIDAY, SEPTEMBER 26, 2003

H024775 S & A BIOTECH, LLC v. BARUCH, et al.

The judgment is affirmed. Each party shall bear their own costs on appeal. (not published)
(Wunderlich, J.; We concur: Elia, Acting P.J., Bamattre-Manoukian, J.)
Filed September 26, 2003

Sixth Appellate District

San Jose, California

Friday, September 26, 2003 (continued)

H023831 PEOPLE v. FLETCHER

The judgment is modified to remove the parole revocation fine imposed upon defendant in the amount of \$10,000. The modified judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Elia, Acting P.J., Mihara, J.)
Filed September 26, 2003

H021125 PEOPLE v. LELEI, et al.

The judgments are affirmed. (not published)
(Wunderlich, J.; We concur: Rushing, P.J., Bamattre-Manoukian, J.)
Filed September 26, 2003

H025210 PEOPLE v. CORTEZ

The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)
Filed September 26, 2003

H025053 STUETZLE v. GALIN

The order is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)
Filed September 26, 2003